

HOUSE BILL REPORT

SJM 8027

As Reported By House Committee On:

Transportation

Brief Description: Objecting to the proliferation of billboard signs on Indian trust lands in the state of Washington.

Sponsors: Senators Wojahn, Winsley, Rasmussen, Heavey, Fraser, Owen and Goings.

Brief History:

Committee Activity:

Transportation: 2/26/96 [DP].

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 14 members: Representatives K. Schmidt, Chairman; Mitchell, Vice Chairman; Skinner, Vice Chairman; R. Fisher, Ranking Minority Member; Hatfield, Assistant Ranking Minority Member; Backlund; Buck; Chopp; Hankins; Horn; Ogden; Robertson; Scott and Tokuda.

Minority Report: Do not pass. Signed by 8 members: Representatives Blanton; Cairnes; Elliot; Johnson; McMahan; Patterson; Romero and D. Schmidt.

Staff: Jennifer Joly (786-7305).

Background: Both state and federal law allow portions of state scenic highways which are "located in areas zoned by the governing county for predominantly commercial and industrial uses" to be excluded from the billboard ban.

On Indian tribal lands the Federal Highway Beautification Act (FHBA) preempts the state Scenic Vistas Act. The FHBA does authorize states to enforce the provisions of the act by using their zoning and eminent domain powers. However, the act does not explicitly say that it can be implemented on Indian reservation lands. A California Supreme Court case ("California DOT v. Naegele Outdoor Advertising", 1985) has held that because the act does not authorize states to condemn reservation lands, regulate tribal land use or sue the tribes, states cannot enforce their land use regulations on tribal lands.

During the past year, very large billboards have been erected in Fife and Milton on lands owned by the U.S. government and held in trust for individual Puyallup tribal

members. The lands are zoned both commercial and residential. In December tribal members made four more applications to the Bureau of Indian Affairs to purchase land beside the highway, presumably for billboard use.

Under the terms of the 1990 Puyallup land claims settlement, all parties, including the tribe, are supposed to take into consideration existing land use plans and regulations and minimize the adverse impact of any land use changes. Controversy exists about whether the tribe has complied with the notice provisions in the settlement.

Summary of Bill: The U.S. Congress is asked to direct the Bureau of Indian Affairs to reject applications for the purchase of tribal trust lands when the intended use is to erect billboards that violate the FHBA or the state Scenic Vistas Act. It also asks that the FHBA be amended explicitly to authorize its enforcement on Indian lands.

Appropriation: None.

Fiscal Note: Not requested.

Testimony For: This memorial will help convince the Washington congressional delegation that the proliferation of billboards on Indian trust lands should be stopped.

Testimony Against: The Puyallup land claims settlement act sets forth a dispute resolution process which should be invoked in lieu of this resolution. The Puyallup Tribal Council has indicated a willingness to sit down with the local governments and the state (which is also a party to the settlement act) to deal with the concerns expressed in this resolution.

Testified: Senator Lorraine Wojahn, prime sponsor (pro); and Randy Scott, Puyallup Indian tribe (con).